



Montana Department of
ENVIRONMENTAL QUALITY

Brian Schweitzer, Governor

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TO: House Natural Resources Committee

FROM: George Mathieus, DEQ

SUBJECT: Additional Information regarding Rep. Mendenhall's question

DATE: March 5, 2009

A question was asked during the hearing regarding the Department or BER's ability to make the "Temporary Nutrient Criteria" stricter, implying that stricter permits limits could be afforded by a specific entity.

I consulted with the Department's chief legal council and was informed that the Department specifically addressed this issue in SB 95. Page 6, line 9, states: "Temporary nutrient criteria approved by the Department become effective and may be incorporated into a permit only after a public hearing and adoption of the board under the rule making procedures of Title 2, chapter 4, part 3."

The key phrase the Department added to the above language in the bill, is "approved by the Department". This allows for the work done between the Department and the individual permitting discharger to be developed prior to rule-making and in turn, does not allow the BER to change those numbers, but rather only have a yes or no vote.